



City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 2206155, 2402967, 2403471

Applicant Name: Zakary Fiorito

Address of Proposal: 11339 Durland Pl Northeast & 11344, 11354 Durland Av Northeast

SUMMARY OF PROPOSED ACTION

Master Use Permit to construct multiple rockeries between one and five feet high in an environmentally critical area (already constructed). Project includes 51 cubic yards of grading and works on adjacent properties at 11354 Durland Avenue Northeast (2403471) and 11344 Durland Avenue Northeast (2402967).

The following approval is required:

***SEPA** - Environmental Determination – (Seattle Municipal Code Chapter 25.05)

SEPA DETERMINATION: ☐ Exempt ☒ DNS ☐ MDNS ☐ EIS

☐ DNS with conditions

☐ DNS involving non exempt grading or demolition or involving another agency with jurisdiction.

*Note: the original notice of this application included an ECA Exception. After further review of the application, proposed project revisions, and by written request of the applicant, the ECA Exception component of this proposal has been withdrawn. Therefore, the ECA Exception analysis was not included as part of this written decision.

BACKGROUND INFORMATION

Site and Vicinity

This approximately 11,883 square foot (sq. ft.) property (A.K.A. 11339 Durland Place Northeast) is a dead end flag shaped lot with a portion of the lot fronting on Durland Place Northeast and located in a Single Family 7200 (SF 7200) zone. Development on the site consists of an existing single family

residence with an attached garage. An expansive amount of dense vegetation consisting of shrubs, trees, flowers and bushes originally resided on the site. Some of this vegetation has been removed and replaced with a series of rockeries. The site is accessed via Durland Place Northeast which is a non-arterial paved roadway with gutters but no curbs nor sidewalks. The property slopes uphill from south to north. The slopes on the north part of the site are 12' to 14' tall (above the elevation of the residence at the site) and have inclinations of up to 67%. The slopes on the west part of the site are up to 24' tall and have inclinations up to 80%. A majority of the site is identified as Environmentally Critical Area (ECA)-Steep Slope.

Zoning in the vicinity is also SF 7200 with development consisting of single family residences.

Proposal Description

This proposal is to complete the construction of a terraced rockery system ranging 2' to 4.5' in height and associated grading work that was performed in an environmentally critical area (Steep Slope) without a permit. This work also expanded approximately 3.6' beyond the subject site's west property line onto the neighboring property (11344 Durland Avenue Northeast) and approximately 5' beyond the north property line onto another neighboring site (11354 Durland Avenue Northeast). These effected areas are also identified as Environmentally Critical Area (ECA)-Steep Slope. Each property is an individual building site, and thus a separate DPD project number has been assigned to the construction proposed on each site; but the overall proposal is to complete the proposed work simultaneously. Thus, this decision will apply to all three projects as if they were one single proposal.

The owner has constructed a terraced rockery system and graded more than 25 cubic yards of earth material within the steeply sloped area of the property without a permit. As proposed, the rockeries and other land disturbing activity would not comply with the standard in SMC Section 25.09.180.A.3, which says that grading and other land disturbing activity shall not exceed 30% of the areas measured over 40% slope. The applicant originally sought to obtain an Environmentally Critical Areas (ECA) Exception to allow grading, construction of rockeries and other land disturbing activity that has already occurred within the steep slope area in excess of the maximum disturbance standard for steep slope areas (30%) established by the ECA Regulations (Seattle Municipal Code (SMC) Section 25.09.180.A.3). However, after further review of the applicant's submitted plans and documents by DPD Staff, it was determined that an Environmentally Critical Areas (ECA) Exception would not be required if the applicant's proposal included a slope restoration for that amount of disturbed area over the 30% threshold (349 sq. ft.). Therefore, the applicant has revised his plans to include a slope restoration plan that consists of the following steps: removal of existing rockeries from selected areas, recontouring the fills and topsoil located immediately behind these rockeries, replacement of landscaping fill, and reestablishment of appropriate vegetation. Thus the ECA Exception component has been removed from this application.

Public Comments

Public notice of the proposed project ended on June 2, 2004. No comments letters were received during this period.

Additional Information

The Department of Planning and Development (DPD) has issued a Notice of Violation (Case # 223080) regarding the construction of the rockeries in an ECA without a construction permit. Due to the un-permitted amount of ECA disturbance activity occurring on the properties, the owners must obtain an Environmental review (SEPA) approval prior to acquiring a construction/grading permit.

ANALYSIS - SEPA

The proposal site is located in a steep slope critical area, thus the application is not exempt from SEPA review. However, SMC 25.05.908 provides that the scope of environmental review of projects within critical areas shall be limited to: 1) documenting whether the proposal is consistent with the City's Environmentally Critical Areas (ECA) regulations in SMC 25.09; and 2) Evaluating potentially significant impacts on the critical area resources not adequately addressed in the ECA regulations. This review includes identifying additional mitigation measures needed to protect the ECA in order to achieve consistency with SEPA and other applicable environmental laws.

Environmental review resulting in a Threshold Determination is required pursuant to the Seattle State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05)

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated December 21, 2003. The information in the checklist and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The Department of Planning and Development has analyzed and annotated the environmental checklist submitted by the project applicant; reviewed the project plans and any additional information in the file. As indicated in the checklist, this action will result in adverse impacts to the environment. However, due to their temporary nature and limited effects, the impacts are not expected to be significant.

Codes and development regulations applicable to this proposed project will provide sufficient mitigation and no further conditioning or mitigation is warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, and certain neighborhood plans and other policies explicitly referenced, may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part, "*Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation*" subject to some limitations. Under such limitations or circumstances (SMC 25.05.665 D) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate. Short-term and long-term adverse impacts are anticipated from the proposal.

Short-term Impacts

The following temporary or construction-related impacts on the environmentally critical area are expected: 1) increased vibration from construction operations and equipment; and 2) temporary soil erosion. These impacts are not considered significant because they are temporary and/or minor in scope (SMC 25.05.794).

City codes and/or ordinances apply to the proposal and will provide mitigation for some of the identified impacts. Specifically these are: 1) Regulations for Environmentally Critical Areas and 2) Stormwater, Drainage and Grading Code (temporary soil erosion).

Earth

The ECA Ordinance and Directors Rule (DR) 3-94 require submission of a soils report to evaluate the site conditions and provide recommendations for safe construction in areas with steep slopes, liquefaction zones, and/or a history of unstable soil conditions. Pursuant to this requirement the applicant submitted a geotechnical evaluation and recommendation for rockeries report dated February 25, 2003; and an addendum to the report dated July 17, 2006-both prepared by Keith Johnson, Geologist and William Chang, P.E. with Geo Group Northwest, Inc. The reports evaluate the soil and site conditions and provide recommendations for erosion and drainage controls, slope stability, grading and earthwork, slope restoration and rockery construction. A vegetation report dated December 23, 2004, prepared by Jim Hunsaker with Landscape Professionals Inc. was also submitted. These reports have been reviewed by DPD's geotechnical experts, who have concluded that the proposed rockery construction and slope restoration may proceed. The construction/grading plans, including shoring of excavations as needed and erosion control techniques will be reviewed by DPD. Additional information required showing conformance with the Environmentally Critical Areas Ordinance will be required prior to issuance of building permits.

The Stormwater, Grading and Drainage Control Code requires preparation of a soils report to evaluate the site conditions and provide recommendations for safe construction on sites where grading will involve cuts or fills of greater than three feet in height or grading greater than 100 cubic yards of material. The Stormwater, Grading and Drainage Control Code provides extensive conditioning authority and prescriptive construction methodology to assure safe construction techniques are used, therefore, no additional conditioning is warranted pursuant to SEPA policies.

Long-term Impacts

Potential long-term impacts that may occur as a result of this project include increased surface water runoff from greater site coverage by impervious surfaces. This long-term impact is not considered significant because the impacts are minor in scope.

DECISION - SEPA

The responsible official on behalf of the lead agency made this decision after review of a completed environmental checklist and other information on file with the department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State

Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

☒ Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).

☐ Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

CONDITIONS - SEPA

None.

Signature: (signature on file) Date: November 13, 2006
Tamara Garrett, Land Use Planner